



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Sean B. Carroll *et al.*
Serial No.: 10/662,918
Filed: 9/15/03
Entitled: Clostridial Toxin Disease Therapy

Group No.: 1644
Examiner: Saunders, D.

**TERMINAL DISCLAIMER UNDER 37 C.F.R. §1.321(c)
TO OBVIATE OBVIOUSNESS-TYPE DOUBLE PATENTING
REJECTION OVER PRIOR U.S. PATENT No. 6,656,468 B1**

Assistant Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)(1)(i)(A)	
I hereby certify that this correspondence (along with any referred to as being attached or enclosed) is, on the date shown below, being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.	
Dated: <u>December 14, 2004</u>	By: <u>Traci E. Light</u>

Sir:

I, the undersigned Peter G. Carroll, am an attorney of record for this invention, and have power of attorney to act on behalf of the Assignees.

The Assignee, PROMEGA CORPORATION, 2800 Woods Hollow Road, Madison, WI 53711, is the sole owner of one-hundred percent (100%) interest in the instant application. The assignments which were filed in the prior Application Serial No. 08/810,908 and issued as United States Patent No. **6,656,468 B1** (Our File No.: OPHD-02701), to which the instant application claims priority as a Continuation Application, was recorded in the Patent and Trademark Office at Reel 011449, Frame 0759.

Petitioners' hereby disclaim, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. §§ 154 to 156 and 173 of U.S. Patent No. **6,656,468 B1**, and hereby agree that any patent so granted on the above-identified instant application or any patent subject to the reexamination proceeding shall be enforceable only for and during such period that said patent is commonly owned with United

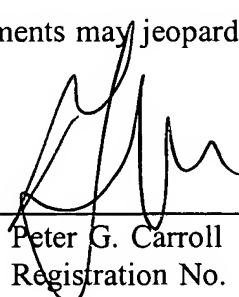
States Patent No. **6,656,468 B1** , this agreement to run with any patent granted on the above-identified instant application and to be binding upon the grantee, its successors or assigns.

In making the above disclaimer, petitioners' do not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, in the event that, once issued, the patent corresponding to U. S. Patent No. **6,656,468 B1 B1** should expire for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under, has all claims cancelled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its full statutory term.

Enclosed herewith is the fee set forth in 37 C.F.R. § 1.20(d) in accordance with 37 C.F.R. § 1.321(c).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Dated: December 14, 2004



Peter G. Carroll
Registration No. 32,837

MEDLEN & CARROLL, LLP
101 Howard Street, Suite 350
San Francisco, California 94105
617-252-3353